

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4554 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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MANAGING TRUSTEE CARMEL SOCIETY TRUST

Versus

DIST. EDUCATION OFFICER  
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Appearance:

MR YH VYAS FOR M/S TRIVEDI & GUPTA for Petitioner  
MS MANISHA LAVKUMAR for Respondents  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/06/2000

ORAL JUDGEMENT

#. Heard the learned counsel for the parties.

#. This writ petition was admitted on 17th July 1990 and  
interim relief in terms of para 8(c) has been granted.

It is to be mentioned that this petition was admitted after notice to the respondents. They have not cared to file reply to the special civil application after notice and even after its admission though more than ten years they had at their disposal. In the absence of reply to the special civil application, the averments made by petitioner in the special civil application stand uncontroverted.

#. One of the grievance is made by learned counsel for the petitioner that under the order dated 14.2.90, the respondents permitted increase of fees to be made by petitioner. This order has been recalled under the impugned orders of respondents No.1 and 2 dated 10th May 1990 and 23rd May 1990 without notice and opportunity of hearing to the petitioner. This factual aspect has not been controverted by filing reply to the special civil application and even during the course of arguments. The only contention has been made by learned counsel for respondents that by mistake, earlier order has been passed and the mistake committed by the officer has been rectified under the impugned orders. Even if it is taken to be a case of correction of mistake, as earlier order has been passed in favour of petitioner under which it has been permitted to increase fees, before it could have been revoked and cancelled, the basic principles of natural justice and fair play are to be followed. Moreover, these two orders have been stayed by this court, meaning thereby, the impugned orders were not given effect to and this is another ground on the basis of which I consider it to be a fit case where the authorities are to be directed to pass fresh order after giving notice and opportunity of hearing to the petitioner. Only on this ground, this writ petition succeeds and accordingly it is allowed and the impugned orders dated 10.5.90 and 23.5.90 are quashed and set aside. Rule is made absolute. However, it is open to the respondents to consider the matter afresh after giving notice and opportunity of hearing to the petitioner in accordance with law. No order as to costs.

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(sunil)